

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KENNETH G. CHARRON,

Petitioner,

v.

DOUG PRUDDEN,

Respondent.

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No. 4:10CV1487 HEA
(TIA)

MEMORANDUM AND ORDER

This matter is before the Court on the Petitioner's Motion for Summary Judgment (Docket No. 27). Petitioner asserts that he is entitled to relief on his petition for a writ of habeas corpus under 28 U.S.C. § 2254 because there are no factual disputes. In the Response to Order to Show Cause, Respondent fully addresses Petitioner's claims, arguing that they are time-barred under 28 U.S.C. § 2244(d)(1) and alternatively, without merit.

More thorough review of Petitioner's motion indicates that, while he takes issue with the Respondent's position, he has not shown the absence of a genuine issue of material fact such that he is entitled to habeas relief. Further, a motion for summary judgment is not the proper vehicle to determine the merits of the petition. See 28 U.S.C. § 2254(a) ("a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court . . .") At this point, the undersigned will deny the motion but will consider the arguments contained in the motion and Traverse when the Court entertains the application for a writ of habeas corpus.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion for Summary Judgment (Docket No. 27) is **DENIED**.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 21st day of January, 2011.